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6   UNITED STATES DISTRICT COURT
                         EASTERN DISTRICT OF WASHINGTON

7   TOBY J. MASSE,

8   Plaintiff,   NO. CV-10-065-EFS

9   vs.   **ORDER GRANTING IN PART
                                              DEFENDANTS' MOTION TO
10   MAGGIE MILLER-STOUT, YSIDRO   VACATE SCHEDULING ORDER**
     BECERRA, JAMES WATKINS, LARRY
11   JENKINS, and GREGORY STARR,

12

13   Defendants.

14   Before the Court, without oral argument, is Defendants' Motion to

15   Vacate Scheduling Order, ECF No. 34.   Defendants seek relief from

16   deadlines in the Court's November 19, 2010 Scheduling Order until after

17   the Court addresses Defendants' Motion for Summary Judgment, ECF No. 20.

18   The Court granted Defendants' Motion to Expedite Hearing of Defendants'

19   Motion to Vacate Scheduling Order, ECF No. 38, requiring Plaintiff Toby

20   J. Masse to respond no later than 5:00 p.m. on August 24, 2011, and

21   resetting the hearing date for Defendants' Motion to Vacate Scheduling

22   Order to August 26, 2011.   ECF No. 39.   Plaintiff has not responded.   For

23   the reasons discussed below, the Court grants in part Defendants' motion.

24   Defendants moved for summary judgment on May 26, 2011, with hearing

25   set for July 15, 2011.   ECF Nos. 20 & 28.   Under Local Rule (LR)

26   7.1(c)(1), Mr. Masse, who is proceeding pro se and in forma pauperis, ECF

ORDER ~ 1

1 No. 3, had thirty (30) days from the date of mailing of the Certificate

2 of Service to respond to Defendants' summary judgment motion. Mr. Masse

3 did not respond. On August 8, 2011, the Court provided Mr. Masse with

4 a *Klingele* advisory[1], extended Mr. Masse's response deadline to September

5 7, 2011, and reset the hearing date to October 12, 2011. ECF No. 33.

6 Because of this unanticipated delay, Defendants seek relief from

7 deadlines for filing pretrial documents until after the Court has

8 addressed Defendants' Motion for Summary Judgment. The Court finds good

9 cause to suspend deadlines in the Scheduling Order and grants in part

10 Defendants' motion.

11   Accordingly, **IT IS HEREBY ORDERED:**

12   1. Defendants' Motion to Vacate Scheduling Order, **ECF No. 34**, is

13 **GRANTED IN PART**. The Court will **hold all deadlines contained in the**

14 **Scheduling Order, with the exception of the trial date, in abeyance**

15 **pending the resolution of Defendants' Motion for Summary Judgment**, ECF

16 No. 20.

17   2. **NOTICE - WARNING**: Because Mr. Masse is proceeding *pro se* in

18 this matter, the Court forgave his earlier failure to respond to

19 Defendants' motion, reset the hearing date for Defendants' motion, and

20 provided Mr. Masse with a *Klingele* advisory. ECF No. 33. **Mr. Masse is**

21 **required to respond to Defendants' motion by September 7, 2011, or he**

22 **risks dismissal of his case**. Under Local Rule 56.1(d), if a party fails

23 to respond to another party's motion for summary judgment, the Court may

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    [1] *See Klingele v. Eikenberry*, 849 F.2d 409, 411 (9th Cir. 1988);
Rand v. Rowland, 154 F.3d 952, 962 (9th Cir. 1998).

ORDER ~ 2

1 assume that the facts as claimed by the moving party are admitted to

2 exist without controversy.

3   **If Mr. Masse fails to respond to Defendants' motion by September 7,**

4 **2011, the Court will accelerate hearing on Defendants' Motion for Summary**

5 **Judgment, and will address the merits of Defendants' motion without oral**

6 **argument on September 8, 2011**.

7   3.   Mr. Masse is further advised that **all parties, whether or not**

8 **represented by an attorney, are responsible for following the**

9 **requirements set forth in the Federal Rules of Civil Procedure and the**

10 **Local Rules.   Please take special note of Local Rule 5.1 regarding**

11 **service and filing of pleadings, Local Rule 7.1 regarding motion**

12 **practice, especially subsections (f) through (h), and Local Rule 56.1**

13 **regarding summary judgment.**

14   **IT IS SO ORDERED.**   The District Court Executive is directed to file

15 this Order and provide copies of this Order to Mr. Masse and counsel.

16   **DATED** this _____26ᵗʰ_____ day of August 2011.

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18   _____
                      S/ Edward F. Shea
                      EDWARD F. SHEA

19   United States District Judge

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ORDER ~ 3